

# MAINE STATE LEGISLATURE

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**INSURANCE AND FINANCIAL SERVICES**

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**STATE OF MAINE**

**SENATE**

**126TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 574, L.D. 1519, Bill, "An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards"

Amend the bill in Part A in section 1 in subsection 5 by striking out all of paragraphs A and B (page 1, lines 14 to 27 in L.D.) and inserting the following:

'A. Any information furnished pursuant to this subsection by or to the superintendent that has been designated confidential by the official, agency or other entity furnishing the information remains the property of the agency furnishing the information and must be held as confidential by the recipient of the information, except as authorized by the official, agency or other entity furnishing the information to the superintendent, with prior notice to interested parties and consistent with other applicable laws. The authority of the superintendent, pursuant to paragraph B, to permit further disclosure to a 3rd party or to the public of information shared by the superintendent is subject to the same requirements and conditions that apply if the superintendent discloses the information directly to a 3rd party or to the public.

B. The superintendent may share information, including otherwise confidential information, with the National Association of Insurance Commissioners or International Association of Insurance Supervisors, public officials of other jurisdictions and members of supervisory colleges in which the superintendent participates pursuant to section 222, subsection 7-B, agencies of the Federal Government or political subdivisions or other agencies of this State, if the recipient of the information agrees to maintain the same level of confidentiality as is available under Maine law and has demonstrated that it has the legal authority to do so.'

Amend the bill in Part A in section 3 in subsection 1-A in the 9th line (page 2, line 28 in L.D.) by striking out the following: "holding company" and inserting the following: 'insurance holding company system'

Amend the bill in Part A in section 3 in subsection 1-A in the 10th line (page 2, line 29 in L.D.) by inserting after the following: "verify" the following: 'the accuracy of'

**COMMITTEE AMENDMENT**

1 Amend the bill in Part A in section 3 in subsection 1-A in paragraph A in  
2 subparagraph (3) in the first line (page 2, line 41 in L.D.) by inserting after the following:  
3 "by" the following: 'its'

4 Amend the bill in Part A in section 3 in subsection 1-A in paragraph B in the 5th line  
5 (page 3, line 10 in L.D.) by inserting after the following: "verify" the following: 'the  
6 accuracy of

7 Amend the bill in Part A in section 3 in subsection 1-A in paragraph D in the 3rd line  
8 (page 3, line 24 in L.D.) by inserting after the following: "other" the following: 'lawful'

9 Amend the bill in Part A in section 4 in paragraph B by striking out all of  
10 subparagraph (3) (page 4, lines 21 to 32 in L.D.) and inserting the following:

11 '(3) The presumption of control contained in subparagraph (1) does not apply to  
12 a securities broker-dealer holding, in the usual and customary broker's function,  
13 less than 20% of the voting securities of another person.'

14 Amend the bill in Part A in section 11 in subsection 4-C by inserting after paragraph  
15 D the following:

16 'E. A broker-dealer that is exempt from the requirements of this section pursuant to  
17 subsection 2, paragraph B, subparagraph (3) shall disclose to the superintendent the  
18 identity of any person, or group of persons the broker-dealer knows or reasonably  
19 believes to be acting in concert, on whose behalf the broker-dealer knows or  
20 reasonably believes that the broker-dealer holds 5% or more of the voting securities  
21 of a domestic insurer or of any entity the broker-dealer knows or reasonably believes  
22 to be a controlling person of a domestic insurer. A broker-dealer shall disclose to the  
23 superintendent on request the beneficial owners of any securities held by the broker-  
24 dealer of any entity that is, or that the superintendent believes might be or might  
25 become, a member of the insurance holding company system of an insurer subject to  
26 registration under subsection 8.'

27 Amend the bill in Part A in section 17 in paragraph B in subparagraph (2) by striking  
28 out all of division (e) (page 14, lines 13 to 15 in L.D.) and inserting the following:

29 '(e) All management and service contracts and all cost-sharing arrangements,  
30 other than cost allocation arrangements based upon generally accepted  
31 accounting principles.'

32 Amend the bill in Part A in section 26 in subsection 13-A in paragraph A by striking  
33 out all of the first 4 lines (page 21, lines 28 to 31 in L.D.) and inserting the following:

34 'A. For purposes of this subsection, "holding company information" means any of the  
35 following documents, materials and other information if the document, material or  
36 other information has not specifically and expressly been designated as a public  
37 record by other applicable law.'

38 Amend the bill in Part A in section 26 in subsection 13-A in paragraph A in  
39 subparagraph (5) in the 2nd line (page 22, line 4 in L.D.) by striking out the following:  
40 "2, paragraph B, subparagraph (3)" and inserting the following: '4-C, paragraph E'

41 Amend the bill in Part A in section 26 in subsection 13-A in paragraph A by striking  
42 out all of subparagraph (10) (page 22, lines 15 to 18 in L.D.) and inserting the following:

1           '(10) Information obtained pursuant to this section from a jurisdiction other than  
2           this State to the extent that it is confidential under the laws of the jurisdiction in  
3           which it is normally maintained; and'

4           Amend the bill in Part A in section 26 in subsection 13-A by striking out all of  
5           paragraphs B and C (page 22, lines 22 to 41 and page 23, lines 1 to 17 in L.D.) and  
6           inserting the following:

7           'B. Except as otherwise provided by paragraphs D and E or specifically and  
8           expressly provided by other applicable law, holding company information is  
9           confidential, is not a public record, is not subject to a subpoena, is not subject to  
10           discovery or admissible as evidence in any private civil action and may not be made  
11           public by the superintendent without prior written consent of the relevant insurer.  
12           The privilege provided under this paragraph does not supersede any other applicable  
13           privilege or confidentiality protection, nor does disclosure of confidential holding  
14           company information to the superintendent constitute a waiver of any such privilege  
15           or protection. Neither the superintendent nor any person who received holding  
16           company information from or under the authority of the superintendent under this  
17           section may be permitted or required to testify in any private civil action concerning  
18           holding company information that is confidential under this subsection.

19           C. The superintendent may share holding company information that is confidential  
20           under this subsection only in accordance with the requirements of section 216,  
21           subsection 5 and the following additional requirements.

22           (1) The recipient of the information must agree in writing to maintain the same  
23           level of confidentiality as is available under Maine law. This requirement may be  
24           satisfied through a multilateral confidentiality agreement to which both the  
25           superintendent and the recipient are parties.

26           (2) The superintendent may not share confidential holding company information  
27           with or through the National Association of Insurance Commissioners except in  
28           accordance with an information-sharing agreement entered into in accordance  
29           with section 216, subsection 5, paragraph C.

30           (3) If the recipient of the information is in the United States, the recipient's state  
31           must have statutes or rules that expressly protect holding company information at  
32           a level at least equivalent to the protections provided by this subsection and  
33           section 216, subsection 5.

34           (4) ORSA-related information subject to subsection 8, paragraph B-3 may, with  
35           the written consent of the insurer, be shared with a 3rd-party consultant under an  
36           agreement containing the conditions specified in section 216, subsection 5,  
37           paragraph C. In addition, any agreement for sharing ORSA-related information  
38           with the National Association of Insurance Commissioners or a 3rd-party  
39           consultant must further provide that:

40           (a) The recipient of the information agrees in writing to maintain the  
41           confidentiality and privileged status of the ORSA-related information and has  
42           verified in writing the legal authority to maintain confidentiality;

1                   (b) Any preauthorization granted under the agreement for further sharing of  
2                   information provided by the superintendent must be limited to only the  
3                   domiciliary regulators of other insurers in the same insurance holding  
4                   company system; and

5                   (c) The National Association of Insurance Commissioners or a 3rd-party  
6                   consultant may not store ORSA-related information shared pursuant to this  
7                   subparagraph in a permanent database after the underlying analysis is  
8                   completed.'

9                   Amend the bill in Part A in section 26 in subsection 13-A by striking out all of  
10                  paragraph E (page 23, lines 21 to 26 in L.D.) and inserting the following:

11                  'E. Unless otherwise provided by applicable law, the superintendent may, after  
12                  giving notice and opportunity for hearing to the insurer and any affiliates, controlling  
13                  person or other persons that would be affected, order one or more items of holding  
14                  company information, other than ORSA-related information, to be made a public  
15                  record in its entirety or in redacted form if the superintendent determines that public  
16                  disclosure will be in the interest of policyholders, shareholders or the public.'

17                  Amend the bill in Part A by inserting after section 33 the following:

18                  '**Sec. A-34. Effective date.** This Part takes effect January 1, 2014.'

19                  Amend the bill in Part B in section 4 in paragraph B-2 in subparagraph (3) by striking  
20                  out the first 2 lines (page 27, lines 7 and 8 in L.D.) and inserting the following:

21                  '(3) The superintendent shall create and publish a list of jurisdictions that are  
22                  qualified to serve as the domiciliary regulators of certified reinsurers.'

23                  Amend the bill in Part B in section 4 in paragraph B-2 in subparagraph (5) in division  
24                  (b) by striking out all of subdivision (iii) (page 28, lines 13 to 24 in L.D.) and inserting  
25                  the following:

26                  '(iii) If the certified reinsurer also maintains a multibeneficiary trust for  
27                  obligations required to be fully secured under paragraph C or comparable  
28                  laws of other states, the certified reinsurer shall maintain separate trust  
29                  accounts for its obligations incurred under reinsurance agreements issued  
30                  or renewed with reduced security as permitted by this paragraph or  
31                  comparable laws of other United States jurisdictions and for its  
32                  obligations that are required to be fully secured. The trust accounts may  
33                  not be approved as qualifying security unless the reinsurer has bound  
34                  itself, by the language of the trust and by agreement with the insurance  
35                  regulator with principal oversight of each such trust account, to apply,  
36                  upon termination of any such trust account, the remaining surplus of that  
37                  trust to the extent necessary to fund any deficiency of any other such  
38                  trust account.'

39                  Amend the bill in Part B in section 5 in paragraph C in subparagraph (3-A) by  
40                  striking out all of division (a) (page 29, lines 35 to 40 in L.D.) and inserting the  
41                  following:

1 (a) For reinsurance ceded under reinsurance agreements with an inception,  
2 amendment or renewal date on or after ~~August 1, 1995~~ January 1, 1993, the  
3 trust must consist of a trustee account in an amount at least equal to the  
4 ~~group's~~ respective underwriters' several liabilities attributable to reinsurance  
5 ceded by United States domiciled ceding insurers to any ~~member~~ underwriter  
6 that is a member of the group.'

7 Amend the bill in Part B in section 10 in §731-E by striking out all of subsection 2  
8 (page 32, lines 16 to 22 in L.D.) and inserting the following:

9 **2. Diversification.** An insurer shall diversify its reinsurance program to the extent  
10 reasonably necessary to avoid imprudent concentrations of risk. A domestic insurer shall  
11 notify the superintendent within 30 days after ceding to any single assuming insurer, or  
12 group of affiliated assuming insurers, more than 20% of the insurer's gross written  
13 premium in the prior calendar year or after the insurer has determined that the reinsurance  
14 ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to  
15 exceed this limit.'

16 Amend the bill in Part C by striking out all of section 3 (page 34, lines 1 to 21 in  
17 L.D.) and inserting the following:

18 **Sec. C-3. 24-A MRSA §952, sub-§1,** as amended by PL 1973, c. 585, §12, is  
19 further amended to read:

20 1. The superintendent shall annually value, or cause to be valued, the reserve  
21 liabilities, hereinafter called reserves, for all outstanding life insurance policies and  
22 annuity and pure endowment contracts of every life insurer transacting business in this  
23 State in accordance with this subchapter, except that in the case of an alien insurer, such  
24 valuation ~~shall~~ must be limited to its United States business; and may certify the amount  
25 of any such reserves, specifying the mortality table or tables, rate or rates of interest and  
26 methods, net level premium method or other, used in the calculation of such reserves. In  
27 calculating such reserves, ~~he~~ the superintendent may use group methods and approximate  
28 averages for fractions of a year or otherwise. In lieu of the valuation of the reserves  
29 required of any foreign or alien insurer, ~~he~~ the superintendent may accept any valuation  
30 made, or caused to be made, by the insurance supervisory official of any state or other  
31 jurisdiction when such valuation complies with the minimum standard herein provided  
32 ~~and if the official of such state or jurisdiction accepts as sufficient and valid for all legal~~  
33 ~~purposes the certificate of valuation of the superintendent when such certificate states the~~  
34 ~~valuation to have been made in a specified manner according to which the aggregate~~  
35 ~~reserves would be at least as large as if they had been computed in the manner prescribed~~  
36 ~~by law of that state or jurisdiction.~~ For policies and contracts issued before the operative  
37 date of the valuation manual or not addressed by the valuation manual, reserves must be  
38 determined according to sections 953 to 958-A. For policies and contracts issued after  
39 the operative date of the valuation manual, reserves must be determined according to  
40 sections 959 and 960 and as specified by the valuation manual.'

41 Amend the bill in Part C in section 5 in §952-A by striking out all of subsections 1  
42 and 2 (page 34, lines 32 to 42 and page 35, lines 1 to 17 in L.D.) and inserting the  
43 following:

1           **1. General.** A life An insurer doing business in this State subject to this subchapter  
2 shall annually appoint a qualified actuary, in accordance with any applicable  
3 requirements of the valuation manual or rules adopted by the superintendent, and  
4 annually submit the opinion of a qualified the appointed actuary as to whether the  
5 reserves and related actuarial items of that life insurer held in support of the policies and  
6 contracts specified by the superintendent by rule are computed appropriately, are based  
7 on assumptions that satisfy contractual provisions, are consistent with prior reported  
8 amounts and comply with applicable laws of this State. The Before the operative date of  
9 the valuation manual, the superintendent by rule shall define the specifics of this the  
10 opinion and. On and after the operative date of the valuation manual, if the valuation  
11 manual has prescribed specific requirements applicable to the opinion, the opinion must  
12 comply with those requirements. The superintendent by rule may add any other items  
13 considered necessary to its the scope of the opinion.

14           **2. Actuarial analysis of reserves and assets supporting those reserves.** A life  
15 Except as otherwise authorized or required in accordance with rules adopted by the  
16 superintendent or applicable provisions of the valuation manual, an insurer, except as  
17 exempted by or pursuant to rule, subject to this subchapter shall include in the opinion  
18 required by subsection 1 an opinion of the same qualified appointed actuary as to whether  
19 the reserves and related actuarial items held in support of the policies and contracts  
20 specified by the superintendent by rule, when considered in light of the assets held by the  
21 insurer with respect to the reserves and related actuarial items, including, but not limited  
22 to, the investment earnings on the assets and the considerations anticipated to be received  
23 and retained under the policies and contracts, adequately provide for the insurer's  
24 obligations under the policies and contracts, including, but not limited to, the benefits  
25 under and expenses associated with the policies and contracts.

26           The superintendent may provide by rule for a transition period for establishing any higher  
27 reserves that the qualified appointed actuary may consider necessary in the opinion  
28 required by this subsection.'

29           Amend the bill in Part C in section 9 in §959 in subsection 1 by striking out all of the  
30 first paragraph (page 38, lines 2 to 5 in L.D.) and inserting the following:

31           '1. General requirement. On and after the operative date of the valuation manual,  
32 reserves on policies and contracts of subject lines of insurance must be valued as follows,  
33 except as otherwise specifically provided in this section or in rules adopted by the  
34 superintendent.'

35           Amend the bill in Part C in section 9 in §959 in subsection 7 in the 2nd line (page 39,  
36 line 32 in L.D.) by inserting after the following: "the change" the following: 'by rule'

37           Amend the bill in Part C in section 9 in §960 by inserting after subsection 4 the  
38 following:

39           '5. Applicability of rules. Rules adopted by the superintendent pursuant to this  
40 subchapter before January 1, 2014 do not apply to policies, contracts or actuarial opinions  
41 issued on or after the operative date of the valuation manual unless expressly made  
42 applicable by rule or order of the superintendent.'

43           Amend the bill in Part C in section 9 in §962 in subsection 2 by striking out all of the  
44 first paragraph (page 42, lines 20 to 25 in L.D.) and inserting the following:







# 126th MAINE LEGISLATURE

LD 1519

LR 570(02)

**An Act To Update the Maine Insurance Code To Maintain Conformance with Uniform National Standards**

**Fiscal Note for Bill as Amended by Committee Amendment 'A'(S-184)**  
**Committee: Insurance and Financial Services**  
**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - Other Special Revenue Funds

### Fiscal Detail and Notes

Additional costs to the Bureau of Insurance in the Department of Professional and Financial Regulation are expected to be minor and can be absorbed within existing budgeted resources.